

Lithuania Immigration Detention Profile

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INTRODUCTION

In July 2015, the Supreme Court of Lithuania ordered the country to pay more than 6,000 Euros in compensation to victims in a case involving breaches of their refugee rights. The complaint concerned two child Afghan refugees who had been detained for undocumented border crossing. They were placed in a remand prison alongside adult men for three months, where they suffered abuse and humiliation.¹ In a case from 2012, when a Syrian family of five was apprehended at a border crossing, the parents were confined in a remand prison while the children were placed in a childcare home.²

Lithuania's sole immigration detention centre is located in Pabrabe and is called the Foreigners Registration Centre. This is a mixed regime facility that has a non-secure section mainly used to house asylum seekers. A separate unit operates as a secure detention centre. The detention facility has received considerable attention from the Lithuanian Ombudsman in recent years. In 2014 and 2015 the Ombudsman visited the centre and found it to be overcrowded and infested with flees. Social services were inadequate and men and women were not always separated.³ In January 2014, the Ombudsperson of Equal Opportunities found there to be an insufficient number of pork-free meals, which amounted to discrimination because Muslims constituted nearly a third

¹ Human Rights Monitoring Institute, "Lithuania to Pay Over 6,000 Euros for Violating Refugee Rights," *European Liberties Platform*, 30 July 2015, <http://www.liberties.eu/en/news/refugee-rights-lithuania-6000-euros>.

² Human Rights Monitoring Institute, *Alternative report to the UN Committee against Torture*, 2014, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LTU/INT_CAT_CSS_LTU_17040_E.pdf.

³ The Seimas Ombudsmen's Office, *Report On National Prevention Of Torture 2014-2015*, 2016, http://www.lrski.lt/images/dokumentai/Seimo_Kontrolieriai_Report_EN_2014-2015.pdf.

of the entire detainee population.⁴

Lithuania has extensively overhauled its immigration legislation over the last decade, including introducing additional grounds for the detention of non-citizens. On the other hand, the number of immigration detainees has remained relatively stable for several years. In 2015, 353 persons were held in immigration detention; 292 in 2014; 363 in 2013; and 375 in 2012.⁵

LAWS, POLICIES, PRACTICES

Key norms. Lithuania's first immigration law after independence from the Soviet Union, adopted in March 1991, was aimed in part at restricting the number of immigrants from other former Soviet republics.⁶ Since then, the country has adopted a series of additional laws and amendments governing immigration and citizenship. The current piece of legislation – the [Law on the Legal Status of Aliens](#) (Aliens' Law) (*jstatymas dėl užsieniečių teisinės padėties*) – was adopted in 2004 and regulates entry, stay and departure of non-citizens from Lithuania, including pre-removal detention (*sulaikymas*). The Aliens' Act was amended several times and the most recent amendments, adopted in 2012-2016, expanded the grounds for detention. According to academic sources, detention is more often imposed since the transposition of the [EU Returns Directive](#).⁷

Grounds for detention. Pursuant to article 113(1) of the Aliens' Law, a non-citizen can be detained: 1) to prevent unauthorized entry; 2) when a person entered or stay unlawfully; 3) to return a person to country when not admitted to Lithuania; 4) when a person is suspected of using false documents; 5) to expulse non-citizen from Lithuania or another EU member state on the basis of the [Council Directive 2001/40/EC](#) on mutual recognition of expulsion decisions; 6) to prevent dangerous communicable diseases; or 7) when the person's stay in Lithuania poses a threat to national security, public order or public health.

According to official sources, irregular stay or entry is the ground most frequently relied on.⁸ As observed by Lithuanian experts, the grounds relating to national security and

⁴ Human Rights Monitoring Institute, *Alternative report to the UN Committee against Torture*, 2014, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LTU/INT_CAT_CSS_LTU_17040_E.pdf.

⁵ Lithuanian Interior Ministry, Migration Department, *Migration Yearbook 2015*, May 2016, <http://www.migracija.lt/index.php?1357390560>; European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁶ Benjamin Brake, *Migration Focus: Lithuania country page*, 2007, <http://www.focus-migration.de/Litauen.1257.0.html>.

⁷ Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

⁸ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

public order are rarely used. The public order ground tends to be applied in cases where a non-citizen has committed criminal offences. Likewise, public health grounds are sometimes used by the authorities, particularly when the person suffering a dangerous contagious disease does not comply with the prescribed treatment (leaving medical establishment without authorisation or getting in close contact with other persons).⁹ In 2011, the [European Commission against Racism and Intolerance](#) (ECRI) recommended that the threat to national security, public order or public health no longer be considered as a ground justifying detention and urged Lithuania to amend its legislation accordingly.¹⁰

With the 2012-2014 amendments to the Aliens' Law a new set of grounds for detention was added, modelled upon the EU Returns Directive. Under article 113(2) of the Aliens' Law, a non-citizen can be detained pending deportation or transfer if he obstructs the proceedings or may abscond. The circumstances revealing a risk of absconding are listed in article 113(5) and include when a non-citizen: 1) does not have a personal identity document and refuses to cooperate in order to establish his identity and/ or nationality; 2) does not have a residence in Lithuania or does not live at a specified address of residence; 3) does not have family ties with persons living in Lithuania, or social, economic or other ties with the country; 4) does not have the funds to live in Lithuania; 5) has failed to leave voluntarily Lithuania within the prescribed time limit; 6) fails to comply with requirements imposed on him in under the alternatives to detention; 7) has failed to comply with the procedure of leaving temporarily detention centre; 8) has applied for asylum in order to avoid criminal liability for illegal border crossing; 9) may pose a threat to public order; or 10) as an asylum seeker, does not cooperate with the competent authorities. According to non-governmental sources, the criteria for finding a risk of absconding are interpreted in broad way.¹¹

Article 113(2) is frequently applied to persons returned to Lithuania based on the [EU Dublin Regulation](#). The fact that an asylum seeker had previously left Lithuania and was subsequently returned there based on the Dublin Regulation or he admits in an initial interview that his destination country was another member state is a sufficient ground to establish a risk of absconding.¹²

Asylum seekers. The initial 2004 version of the Aliens' Law did not provide for specific grounds for detention of asylum seekers but the general grounds for detention were also applicable to this category. However in practice alternatives to detention were most frequently used for asylum seekers. Amendments adopted in 2006 eliminated the legal

⁹ Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

¹⁰ European Commission against Racism and Intolerance (ECRI), *ECRI Report on Lithuania (fourth monitoring cycle)*, CRI(2011)38, June 2011, http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/Lithuania_CBC_en.asp.

¹¹ Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

¹² Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>; Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

basis for the detention of asylum seekers. Asylum seekers were subsequently generally not detained; instead, they were accommodated in the non-secure section of the Foreigners' Registration Centre or in other open reception centres.¹³

After article 113(2) was added to the Aliens' Law in 2012, which provides specific grounds concerning the detention of asylum seekers (see "Grounds for Detention" above), authorities began applying detention in increasing numbers of asylum cases. As explained by official sources, this amendment was aimed at reducing the number of non-citizens abusing the asylum procedure. Before the law was adopted, approximately 70 percent of asylum seekers accommodated in the non-secure section of the Foreigners' Registration Centre reportedly absconded.¹⁴

In 2013, amendments to the Aliens Law expanded the grounds for detaining asylum seekers under article 113(4). These grounds mirror the grounds laid down in the [EU Reception Conditions Directive](#). Accordingly, asylum seekers may be detained: 1) to detect and/or to verify his identity and/or nationality; 2) to find out the reasons underlying the request for asylum if this information cannot be obtained without resorting to detention and the person poses a risk of absconding under article 113(5)(6)-(10); 3) if the person applies for asylum while being already held in detention under article 113(2) and there are serious grounds for believing that the request has been made only in order to delay return; 4) under article 28 of EU Dublin Regulation, which provides for detention pending transfer in case of a risk of absconding; 5) where the person poses a threat to national security or public order.

In light of these changes, in 2014 the [UN Committee Against Torture](#) (CAT) urged Lithuania to detain asylum seekers only as a measure of last resort for as short a period as possible.¹⁵

In its 2016 submission to the UN Universal Period Review, UNHCR stated that the country "had taken positive steps to guarantee against the unlawful or arbitrary detention of asylum-seekers. Following a series of amendments, the *Aliens Law* currently provides, *inter alia*, that vulnerable persons and families with children may be detained only in exceptional cases and that detention of foreigners, including asylum-seekers, must be as brief as possible. These amendments partially incorporate UNHCR's

¹³ Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007; Jesuit Refugee Service, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union*, 2010; European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

¹⁴ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

¹⁵ Committee against Torture, *Concluding observations on the third periodic report of Lithuania*, CAT/C/LTU/CO/3, 17 June 2014, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/LTIndex.aspx>.

Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention and hence strengthen guarantees against arbitrary detention of asylum-seekers. UNHCR also notes with appreciation that Lithuania provides and operates a system of alternatives to detention, which also helps to avoid unnecessary detention of asylum-seekers.¹⁶

Minors and other vulnerable persons. The Aliens' Law does not prohibit detention of children. Under article 114(4) of the Aliens' Law vulnerable persons and families with children may be detained in exceptional cases, taking into account the best interests of the child. Article 2(18) defines the notion of vulnerable persons as persons with special needs, including children, persons with disabilities, persons older than 75, pregnant women, single parents, persons with mental disabilities, victims of trafficking, torture, rape or other forms of psychological, physical or sexual violence.

Until 2015, the Aliens' Law provided for a specific alternative to detention of unaccompanied children. Under article 115(2)(3), which has been repealed, unaccompanied children could be entrusted to a relevant social agency. According to official and academic sources, this alternative was usually applied and unaccompanied children who were not put in detention.¹⁷ Under this provision, unaccompanied children were accommodated in the Refugee Reception Centre, located in Rukla. The centre is under the responsibility of the Ministry of Social Security and Labour and as of 2013 it had a capacity of 15.¹⁸

Despite the fact that article 115(2)(3) has been repealed, non-governmental sources report that unaccompanied children are generally not detained but placed in the Refugee Reception Centre.¹⁹ According to official sources, 9 unaccompanied children were placed in RRC in 2013; 81 in 2012; 4 in 2011; 8 in 2010; and none in 2009.²⁰ Out of 102 unaccompanied children accommodated in the centre between 2009-2013, as alternative to detention, reportedly 101 left the centre and absconded.²¹

¹⁶ UNHCR, Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: *2nd Cycle, 26th Session: Lithuania*. 2016. Available at: <http://www.refworld.org/country,,UNHCR,,LTU,,57fb8ed94,0.html>.

¹⁷ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm; Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

¹⁸ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The Organisation of Reception Facilities for Asylum Seekers in different Member States*, 2013. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

¹⁹ Gintarė Guzevičiūtė (Lithuanian Red Cross), *Email exchange with Izabella Majcher* (Global Detention Project), December 2016; Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

²⁰ Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

²¹ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the*

According to the UNHCR, five children were detained in 2015, 11 in 2014 and 6 in 2013. The Refugee Agency did not clarify whether these figures refer to all children or only unaccompanied. The UNHCR found that the reduction of the number of children detained between 2014 to 2015 was thanks to strategic litigation efforts of the [Lithuanian Red Cross Society](#) (LRSC).²²

The ECRI urged Lithuania to ensure that children are held in detention only in exceptional circumstances.²³

In 2015 the non-governmental sources noted that whether families with children are detained depends considerably on judges considering their case. While some judges often rule that detention of families is not proportionate, other frequently authorize their detention. In 2010 the [Jesuit Refugee Service](#) (JRS), reported that families were not detained but rather accommodated at the non-secure section of the Foreigners' Registration Centre, which had separate apartments for couples and families with young children.²⁴

Stateless persons. Like in other Baltic countries Latvia and Estonia, the situation of statelessness emerged as an important humanitarian issue in Lithuania after the dissolution of the Soviet Union. According to UNHCR, Lithuania took some important steps aimed at preventing a potentially significant statelessness problem” from arising.²⁵

The number of stateless persons placed in detention has been small. According to UNHCR, between 2006 and 2012 only 15 stateless persons were placed in detention for a period that exceeds 48 hours.²⁶ According to the Interior Ministry. 3 stateless persons were detained in 2015; 7 in 2014; 1 in 2013; 6 in 2012; 2 in 2011; 0 in 2010; 8 in 2009; and 0 between 2006-2008. In turn, 1 stateless person was subject to alternatives to detention in 2015; 5 in 2011; 2 in 2010; 5 in 2009; 3 in 2008; and none in 2006 and 2007.²⁷

context of immigration policies, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

²² UN High Commissioner for Refugees (UNHCR), *Beyond Detention: Progress Report: Lithuania*, 2016, <http://www.unhcr.org/detention.html>.

²³ European Commission against Racism and Intolerance (ECRI), *ECRI Report on Lithuania (fourth monitoring cycle)*, CRI(2011)38, June 2011, http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/Lithuania_CBC_en.asp.

²⁴ Jesuit Refugee Service, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union*, 2010.

²⁵ UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in Lithuania*, 2016, <http://www.refworld.org/docid/580f649c4.html>.

²⁶ UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in Lithuania*, 2016, <http://www.refworld.org/docid/580f649c4.html>.

²⁷ Lithuanian Interior Ministry, Migration Department, *Migration Yearbook 2015*, May 2016, <http://www.migracija.lt/index.php?1357390560>; UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in Lithuania*, 2016, <http://www.refworld.org/docid/580f649c4.html>.

According to UNHCR, official statistics may not reflect the true number of stateless persons in detention because some detainees are registered by their presumed nationality.²⁸

Length of detention. Article 114 of the Aliens' Law authorizes the police or other law enforcement officer to detain non-nationals for an initial maximum period of 48 hours. A court must then authorize detention beyond this period (article 114(1)-(2)).

The original version of the Aliens' Law did not set out the maximum permissible length of detention. The formal limits on detention were introduced by the 2011 and 2015 amendments aimed to bring the Aliens' Law in line with the Returns Directive. Thus, like [Denmark](#) and [Sweden](#), Lithuania introduced a formal limit on detention in order to comply with the EU Returns Directive but, like Denmark, the country relied on the maximum length of detention permissible under the directive. According to article 114(5) of the Aliens' Law the initial period of detention may not exceed six months. Detention can be nevertheless extended by another 12 months if the person does not cooperate in the preparation of his removal or there are delays in obtaining documents required documents.

According to official sources, the average length of detention was 38 days in 2013; 40 days in 2012; 51 days in 2011; 61 days in 2010; and 66 days in 2009.²⁹ Earlier reports by civil society organizations point to much longer average periods of detention. In 2010 the Jesuit Refugee Service found the average length of detention to be nine and a half months,³⁰ while Caritas found that the average period of detention in 2006 to be two and a half months.³¹

In 2014, the CAT urged Lithuania to refrain from detaining non-citizens for prolonged periods.³²

Procedural guarantees. Detention beyond 48 hours must be authorized by a court (article 114(2)). Within 48 hours following arrest a police or other law enforcement officer shall apply to a district court with a request to order detention. Non-citizen must be present at the court hearing and is entitled to legal assistance granted by the state (article 116(1)). The hearing is regulated by the [Administrative Proceedings Law](#) (article 116(2)). The court's decision to order detention or alternative measure to detention must

²⁸ UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in Lithuania*, 2016, <http://www.refworld.org/docid/580f649c4.html>.

²⁹ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

³⁰ Jesuit Refugee Service, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union*, 2010.

³¹ Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007.

³² Committee against Torture, *Concluding observations on the third periodic report of Lithuania*, CAT/C/LTU/CO/3, 17 June 2014, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/LTIndex.aspx>.

be announced in a language the non-citizen understands, indicating the reasons of the measure (article 116(3)). In particular, the court's decision to detain the person must state the grounds for detention, the time period of detention with the exact calendar date indicated and the place of detention (article 116(4)).

The Aliens' Law provides for a procedure of reconsideration. When the grounds for detention are not valid anymore, including when expulsion is not feasible, detention centre is obliged and detainee entitled to apply to the district court with a request to reconsider the detention decision. Within 10 days from the date of receiving the request, the court shall adopt decision to uphold, reverse or quash the detention decision (article 118). In contrast to the initial detention decision, free legal aid is not provided at the stage of detention review procedure.³³

Under article 117 of the Aliens' Law, the non-citizen is entitled to appeal his detention, extension of his detention or the imposition of an alternative measure to detention before the Supreme Administrative Court. Detainees can submit appeal through the detention centre, which is obliged to transfer the appeal to the court. The Supreme Administrative Court must adopt a decision within 10 days from the date of receiving the appeal. The appeal proceedings are regulated by the Administrative Proceedings Law.

The legal assistance free of charge is organized by the Migration Department of the Interior Ministry. The Migration Department announces a public competition and hires a law firm to provide legal aid. However, state-guaranteed legal aid is limited to the representation during court hearing. It does not cover preparation or counseling before the court session or any legal consultation related to any other matter. In turn, the Lithuanian Red Cross offers a legal aid of a broader scope. However, its assistance is dependent on project-based financing and its lawyers need permission to access the detainees.³⁴

According to official sources, upon admission to detention centre non-citizens are entitled to free interpretation services.³⁵

Trends and statistics. According to official statistics, 353 persons were detained on grounds of irregular entry or presence in 2015; 292 in 2014; 363 in 2013; 375 in 2012; 241 in 2011; 132 in 2010; and 212 in 2009. In past years the share of origin of detainees has changed. The number of detainees coming from Asian countries increased from 37 in 2011 to 241 in 2015. Out of 241 detainees of Asian origin in 2015, 203 were from Vietnam. Europeans constitute the second largest group detained. Out of 104

³³ Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

³⁴ Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

³⁵ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

Europeans detained in 2015, 65 were from Georgia, 22 from Russia, and 10 from Belorussia.³⁶

Alternatives to detention. Under to article 115(1) if the non-citizen's identity has been established, he does not pose a threat to national security or public order, and collaborates with the authorities, the court may decide to grant the person an alternative measure to detention. The most frequent reason for refusing alternatives is unknown identity of the non-citizen. There are also practical obstacles that prevent non-citizens from benefiting from alternatives to detention, including lack of accommodation and access to socio-economic rights.³⁷ According to official sources, alternatives are granted if a person has adequate means of subsistence, and social and family links with Lithuania. In practice, non-citizens rarely meet these requirements and thus alternatives to detention are rarely granted.³⁸

Article 115(2) enumerates the following alternatives to detention: 1) regular reporting to the local police office; 2) release of a non-citizen to a care by his relative, who is either citizen of Lithuania or a resident foreigner; or 3) accommodation in a non-secure section of detention centre. The latter is applicable only to asylum seekers.³⁹ According to the European Commission, residence restrictions and regular reporting are used in practice.⁴⁰

According to official sources, 25 non-citizens were granted alternatives in 2015; 70 in 2014; 24 non-citizens were granted alternatives to detention in 2013, 94 in 2012; 15 in 2011; 35 in 2010; and 21 in 2009.⁴¹

³⁶ Lithuanian Interior Ministry, Migration Department, *Migration Yearbook 2015*, May 2016, <http://www.migracija.lt/index.php?1357390560>; European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

³⁷ Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

³⁸ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm; Lithuanian Red Cross Society, *Detention of asylum seekers and alternatives to detention in Lithuania*, 2011, http://redcross.eu/en/upload/documents/pdf/2012/Migration/Lithuania_Study_on_detention%20pdf.pdf.

³⁹ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁴⁰ European Commission, *Communication from the Commission to the Council and the European Parliament on EU Return Policy*, COM(2014)199, March 2014, [http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2014\)0199_/com_com\(2014\)0199_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2014)0199_/com_com(2014)0199_en.pdf); Lyra Jakuleviciene, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

⁴¹ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

In 2014, the CAT urged Lithuania to promote alternatives to detention.⁴²

Criminalization. Irregular entry to or stay in Lithuania are subject to penal sanctions. Under article 291 of the [Criminal Code](#), unlawful border crossing is punishable with a fine or imprisonment for up to two years. In turn, pursuant to article 206 of the [Code of Administrative Offences](#), undocumented stay is liable to a fine up to 173 Euros.⁴³

According to official statistics in 2015 the authorities registered 1,865 migration-related infractions of the Code of Administrative Offences, related to entry, residence, and transit. 2,173 infractions were registered in 2014; 2,078 in 2013; 660 in 2012; 2,465 in 2011.⁴⁴ In July 2015, the Supreme Court ordered Lithuania to pay more than 6,000 Euros in compensation for violating the rights of two minor Afghan refugees in the context of detention for undocumented border crossing. They were placed in a remand prison alongside adult men for three months, where they suffered abuse and humiliation.⁴⁵

Regulation of detention conditions. Until the most recent amendment to the Aliens' Law adopted in 2016, the Aliens' Law used the term "Foreigners' Registration Centre" (*užsieniečių registracijos centras*) when referring to detention centre (article 114(2)). The current version of the Aliens' Law uses instead the names of "State Border Guard Service" (*Valstybės sienos apsaugos tarnyba*). However, the previous terminology has been retained in the Interior Ministry's Order on the Temporary Accommodation of Foreigners at the Foreigners' Registration Centre: Conditions and Procedure ([*jsakymas dėl laikinojo užsieniečių apgyvendinimo užsieniečių registracijos centre sąlygų ir tvarkos aprašo*](#)), which was approved in 2007 and amended in 2016.

The Interior Ministry's Order on the Temporary Accommodation of Foreigners at the Foreigners' Registration Centre: Conditions and Procedure regulates detainees' rights and obligations, disciplinary measures, health care, material conditions and organization of the visits. Accordingly, undocumented migrants are to be detained separately from asylum seekers (article 4(1)), men and women are to be confined separately (article 4(3)), and families are to be held together to ensure adequate privacy (article 4(4)). Asylum seekers are to be accommodated separately from detainees (article 4(2)). Detainees are not allowed to keep their mobile phones (article 24(4)).

Article 18 lists several entitlements of the detainees, including to obtain information about their legal situation in Lithuania, use legal aid provided by state, hire a lawyer at

⁴² Committee against Torture, *Concluding observations on the third periodic report of Lithuania*, CAT/C/LTU/CO/3, 17 June 2014, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/LTIndex.aspx>.

⁴³ European Union Agency for Fundamental Rights (FRA), *Criminalisation of migrants in an irregular situation and of persons engaging with them*, 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>.

⁴⁴ Lithuanian Interior Ministry, Migration Department, *Migration Yearbook 2015*, May 2016, <http://www.migracija.lt/index.php?1357390560>.

⁴⁵ Human Rights Monitoring Institute, "Lithuania to Pay Over 6,000 Euros for Violating Refugee Rights," *European Liberties Platform*, 30 July 2015, <http://www.liberties.eu/en/news/refugee-rights-lithuania-6000-euros>.

their own expense, receive emergency medical assistance free of charge, receive and send letters or money, receive parcels, buy food, clothing and other necessities, use centre's pay phones, practice religion, contact international and non-governmental organizations, receive visits (upon the permission of the head of the centre). Detainees are to be afforded primary health care, provided by a general doctor or nurse, and emergency aid in health care institutions (article 32-35). Adult detainees receive three meals daily, while children four meals (article 43). Detainees should be allowed to stay in the open air (article 44). Children are entitled to schooling (article 18(16)).

The Interior Ministry's order also provides for disciplinary sanctions. Detainees who do not respect the internal order and regulations of the centre may be ordered to clean the facility or isolated for up to 48 hours (article 26).

Privatization. The Foreigners' Registration Centre appears to be a wholly state-operated facility, under the management of the State Border Guard Service. NGOs like Caritas and the Lithuanian Red Cross assist people at the facilities with some basic services. According to one source, "Red Cross social worker as well as lawyer have access to this center and provide social and legal services to the detained persons (in addition to the services provided by the state)."⁴⁶

Cost of detention. According to official sources daily costs of detention amounts approximately to 18 Euros, while daily costs of accommodation in the non-secure section of the centre is around 14,5 Euros.⁴⁷

DETENTION INFRASTRUCTURE

As of 2016, Lithuania operated one dedicated immigration centre, officially called Foreigners' Registration Centre.⁴⁸ The centre, which has a mixed regime combining a non-secure accommodation section and a secure detention section, is located near the Belorussian border, in Pabrade, on the site of a former border police base.⁴⁹ Before the centre was opened in 1997, irregular non-citizens were generally held in police cells

⁴⁶ Gintare Guzeviciute (Lithuanian Red Cross), Email to Michael Flynn (Global Detention Project), 31 October 2016.

⁴⁷ Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

⁴⁸ Gintarė Guzevičiūtė (Lithuanian Red Cross), *Email exchange with Izabella Majcher* (Global Detention Project), December 2016; European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁴⁹ Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007; Jesuit Refugee Service, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union*, 2010.

while they awaited deportation or to have their status determined.⁵⁰ The facility is run by the State Border Guard Service, which is under the Ministry of Interior. The two secure and non-secure sections of the facility are located in separate buildings.⁵¹

The Foreigners' Registration Centre has undergone numerous changes and renovations in recent years, which have reportedly led to improved conditions.⁵² The capacity of the secure detention section of the facility has been reduced over the past years. As of 2014 the capacity of the centre was reportedly 76,⁵³ 170 as of 2011,⁵⁴ and 265 as of 2007.⁵⁵ The majority of services and logistical arrangements are provided jointly to the detention and accommodation centres. As of 2013, the facility employed 86 staff for dealing both with detainees and asylum seekers accommodated in the non-secure section.⁵⁶ The centre is guarded with walls and barbed wire and patrolled by armed border guards.⁵⁷

According to official sources, men and women are confined on separated floors of the centre. Families are accommodated together. Detainees have the possibility to go the outdoor space twice a day. Detainees can receive visits and use a landline telephone but there are not allowed to keep their mobile phones. The centre offers access to the TV, press, books, and sport equipment. General practitioner visits the centre twice per week, while general medical care is provided daily on working days.⁵⁸

⁵⁰ Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007.

⁵¹ Gintarė Guzevičiūtė (Lithuanian Red Cross), *Email exchange with Izabella Majcher* (Global Detention Project), December 2016; European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm;

Lithuanian Interior Ministry, Migration Department, *Migration Yearbook 2015*, May 2016, <http://www.migracija.lt/index.php?1357390560>; Lithuanian Interior Ministry, Migration Department, *Migration Yearbook 2014*, May 2015, <http://www.migracija.lt/index.php?1357390560>.

⁵² UNHCR, Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: *2nd Cycle, 26th Session: Lithuania*. 2016. Available at: <http://www.refworld.org/country,,UNHCR,,LTU,,57fb8ed94,0.html>.

⁵³ Vladimiras Siniovas and Vilma Ivankevičiūtė, *Completed Legal Questionnaire for the project MADE REAL: Lithuania*, MADE REAL, 2015, <http://odysseus-network.eu/made-real-national-reports/>.

⁵⁴ Lithuanian Red Cross Society, *Detention of asylum seekers and alternatives to detention in Lithuania*, 2011, http://redcross.eu/en/upload/documents/pdf/2012/Migration/Lithuania_Study_on_detention%20pdf.pdf.

⁵⁵ Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007.

⁵⁶ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The Organisation of Reception Facilities for Asylum Seekers in different Member States*, 2013. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm

⁵⁷ Lisa Marie Borrelli and Annika Lindberg, "Lithuania's 'Hotel' with Special Guests," *Border Criminologies*, 13 April 2016, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/04/lithuania%E2%80%99s->

⁵⁸ European Migration Network (EMN) National Contact Point for Lithuania (Ministry of Interior and International Organization for Migration (IOM)), *The use of detention and alternatives to detention in the*

There have been numerous complaints over the years concerning poor conditions and over-crowding at the Foreigners' Registration Centre. However, in its 2016 submission to the UN Universal Periodic Review, UNHCR stated that "renovations undertaken in both the detention section and the reception section of the center have contributed to the availability of better material reception conditions in the facility."⁵⁹ Despite the improvements, UNHCR stated that more needed to be done to improve standards at the facility. "For example, the accommodation facility for asylum-seekers at the Foreigners Registration Centre is next to the detention section, which is surrounded by a barbed wired fence and uniformed guards. This atmosphere negatively impacts traumatized asylum-seekers, especially those who have been subjected to physical and/or psychological violence and persons with disabilities. Further, the number of social workers and psychological personnel employed in the Centre is insufficient and recreation and rehabilitation opportunities remain limited."⁶⁰

In 2015, the [Lithuanian Ombudsman](#) visited the centre and found it to overcrowded. Although premises were reportedly regularly disinfected against fleas, they had still not be eradicated. Detainees had limited possibility to cook their own food and nutrition was not necessarily in line with the persons' religious convictions and menu for the children was the same as for the adults. A social worker was employed for one hour daily and was thus not able to ensure all the necessary social services for detainees.

During the Ombudsman's previous visit in 2014, it found that the principle of gender separation was not always complied with and families could not be accommodated separately. The centre did not always ensure nutrition in line with religious convictions and the place to practice religion. Although translation was generally ensured, persons speaking rare languages had difficulties in the daily life in the centre. The registration of cases of the use of force was inappropriate. Likewise, regulation of the use of firearms and special measures was inadequate since official notifications were drafted inappropriately and there was no medical check-up following the use of these measures. The Ombudsman expressed also concern about cleanness, lighting and heating.⁶¹

In January 2014, the [Ombudsperson of Equal Opportunities](#) assessed a complaint from detainees about the provision of food at the centre in the light of the freedom of religion. Centre served only pork, which is not consumed by Muslims and Buddhists. At that time around 35 percent of accommodated or detained non-citizens at the facility were Muslims. The Ombudsman concluded that the lack of possibility for a large group of persons to have nutrition in line with it's religious convictions amounts to

context of immigration policies, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁵⁹ UNHCR, Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: *2nd Cycle, 26th Session*: Lithuania. 2016. Available at: <http://www.refworld.org/country,,UNHCR,,LTU,,57fb8ed94,0.html>.

⁶⁰ UNHCR, Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: *2nd Cycle, 26th Session*: Lithuania. 2016. Available at: <http://www.refworld.org/country,,UNHCR,,LTU,,57fb8ed94,0.html>.

⁶¹ The Seimas Ombudsmen's Office, *Report On National Prevention Of Torture 2014-2015*, 2016, http://www.lrski.lt/images/dokumentai/Seimo_Kontrolieriai_Report_EN_2014-2015.pdf.

discrimination.⁶²

In 2014, the UN Committee against Torture noted that the detention unit needed renovation and urged Lithuania to proceed with planned reconstruction of the centre to offer vulnerable persons separate accommodation.⁶³ In the same year the [Human Rights Monitoring Institute](#) observed that the conditions were poor, including crumbled walls and the lack of sufficient amount of chairs and lockable drawers for every detainee. In addition, the formal requirement of at least five square metres per person is not always respected in practice.⁶⁴

There were also allegations about disproportionate use of force in the centre. Reportedly, in October 2013 the officers of the centre together with the State Border Guard Service conducted an unannounced check in the detention centre. After the raid a group of nine detainees filed a complaint alleging disproportionate use of force. As of April 2014, the investigations were ongoing. According to the Human Rights Monitoring Institute, the check-up raids are systematically carried out.⁶⁵

In 2011, the Lithuanian Red Cross reported that women and men were detained separately. Yet, the centre did not have a special area to accommodate families. Thus spouses and families were separated unless authorities decided to transfer them to the non-secure part of the facility, which had a special area for families. Detainees complained about the variety of food, as only pork or beef was served. Another concern related to hygiene: detainees had access to hot water only on weekends. No leisure activities were organized for detainees. All detainees had access to the primary health care services, provided by a general practitioner. The centre also employed three nurses seven days per week.⁶⁶ The centre was visited once per month by the Red Cross, based on the 2010 tripartite memorandum of understanding with the UNHCR, State Border Guard Service and the Lithuanian Red Cross.⁶⁷

In its initial report on Lithuania in 2010, the Global Detention Project reported on information provided by Caritas and Jesuit Refugees Services at the detention centre. In 2007, [Caritas](#), reported on a visit it made to the detention centre. It found that there were

⁶² Human Rights Monitoring Institute, *Alternative report to the UN Committee against Torture*, 2014, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LTU/INT_CAT_CSS_LTU_17040_E.pdf.

⁶³ Committee against Torture, *Concluding observations on the third periodic report of Lithuania*, CAT/C/LTU/CO/3, 17 June 2014, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/LTIndex.aspx>.

⁶⁴ Human Rights Monitoring Institute, *Alternative report to the UN Committee against Torture*, 2014, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LTU/INT_CAT_CSS_LTU_17040_E.pdf.

⁶⁵ Human Rights Monitoring Institute, *Alternative report to the UN Committee against Torture*, 2014, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LTU/INT_CAT_CSS_LTU_17040_E.pdf.

⁶⁶ Lithuanian Red Cross Society, *Detention of asylum seekers and alternatives to detention in Lithuania*, 2011, http://redcross.eu/en/upload/documents/pdf/2012/Migration/Lithuania_Study_on_detention%20pdf.pdf; Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007.

⁶⁷ Lithuanian Red Cross Society, *Detention of asylum seekers and alternatives to detention in Lithuania*, 2011, http://redcross.eu/en/upload/documents/pdf/2012/Migration/Lithuania_Study_on_detention%20pdf.pdf;

indoor and outdoor spaces available for sports activities, and detainees were able move freely between them during the day. There were four to six beds per cell. Caritas also received numerous complaints from detainees, which were reiterated in the Jesuit Refugee Service's 2010 survey. Detainees complained of poor conditions, buildings badly in need of renovation, damaged equipment, cold, dampness, poor ventilation, harsh treatment from the wardens and a lack of activities. The Jesuit Refugee Service found the ongoing medical attention past the initial screening to be inadequate. Furthermore, contact with the outside world was difficult as the fixed telephone was often out of order and mobile phones were not permitted.⁶⁸

⁶⁸ Caritas Lithuania, "Lithuania," In *Civil society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, edited by the Jesuit Refugee Service-Europe, 2007; Jesuit Refugee Service, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union*, 2010.

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